

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Levone Footman,)
)
 Plaintiff,)
)
 v.)
)
 Nancy A. Berryhill,)
 Acting Commissioner of Social Security)
 Administration,)
)
 Defendant.)
)
 _____)
)
 Civil Action No. 6:16-cv-03361-TMC
)
 ORDER
)

Plaintiff, Levone Footman, brought this action pursuant to 42 U.S.C. 1383(c)(3), seeking judicial review of a final decision of the Commissioner of Social Security (“Commissioner”) denying his claim for Supplementary Security Income (“SSI”) pursuant to the Social Security Act. (ECF No. 1). This matter is before the court for review of the Report and Recommendation (“Report”) of the United States Magistrate Judge, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(a) (D.S.C.). (ECF No. 27). The Report recommends that the Commissioner’s decision be reversed and remanded pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings consistent with the Report. (ECF No. 27 at 19). Specifically, the Magistrate Judge determined that the Administrative Law Judge (“ALJ”) should reconsider the opinion of treating physician Dr. Gibbs and the additional allegations of error as made by Plaintiff.¹ (ECF No. 27 at 19). Plaintiff has not filed objections to the Report. On January 18, 2018, the Commissioner filed a notice of her intent not to file any objections to

¹ The Magistrate Judge and this court decline to address claimant's additional allegations of error since there is sufficient basis for remand due to the failure to properly consider the opinion of Dr. Gibbs. The additional allegations of error should be considered and addressed on remand. *See Boone v. Barnhart*, 353 F.3d 203, 211 n. 19 (3rd Cir. 2003) (remanding on other grounds and declining to address claimant's additional arguments).

the Report. (ECF No. 29). However, Defendant does not concede that her administrative decision denying benefits to Plaintiff was not substantially justified. (ECF No. 29).

The Report has no presumptive weight and the responsibility to make a final determination in this matter remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). In the absence of objections, this court is not required to provide an explanation for adopting the Report. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

After a thorough and careful review of the record, the court adopts the Report of the Magistrate Judge (ECF No. 27), which is incorporated herein by reference. The Commissioner’s final decision is **REVERSED AND REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative review as set forth in the Report.

IT IS SO ORDERED.

s/Timothy M. Cain
Timothy M. Cain
United States District Judge

Anderson, South Carolina
January 19, 2018